

**Staff Report**  
**Syringe Exchange Programs**  
**Amendments to Title 18**

**Date: October 15, 2019**

**To: City of Kennewick Planning Commission**

**From: City Attorney's Office, Lisa Beaton, City Attorney**

## **BACKGROUND**

In the Spring of this year a non-profit syringe exchange program began to occupy a building owned by Ideal Options in Kennewick. At that time the City did not have any zoning regulations in place to regulate this type of use. The syringe exchange program has since moved to another location in Kennewick and is operated out of a van. Syringe exchange programs are lawful as determined by the State Supreme Court in the 1992 case *Spokane County Health District v. Brockett*, 120 Wash.2d 140 (1992). Syringe exchange programs are an approved method of “harm reduction” and as such are supported by a Department of Health state grant program. Per RCW 71.24.590 the City has limited authority to regulate needle exchanges to mitigate the potential public health and safety issues related to this type of use. The City can define “syringe exchange” in its land use code, it can determine which zones to permit syringe exchange, and it can prohibit “safe injection” sites or programs. The City can require distance restrictions, limit the hours of operation, require proper storage and disposal, as well as prohibit the exchange of syringes with minors.

## **PROPOSAL**

- KMC 18.09.2055 Defines “Syringe Exchange Program” using the definition from the State Department of Health.
- KMC 18.12.010 B.1 Adding a new category to the table and identifying Commercial Community, Commercial Regional and Commercial General as the zones where syringe exchanges can be located; identifies the review process as staff review and cross references KMC 18.12.245 for the specific regulations for this use.
- KMC 18.12.245 Adds a new section to KMC 18.12 titled “Syringe Exchange Programs”
  - Imposes distance restrictions from residential zones, schools, parks, public facilities and other syringe exchange programs.
  - It prohibits distribution to minors and requires business hours to be limited to daytime.
  - It requires proper storage and disposal of syringes, as well as requires the owner to keep the premises and public right of ways free of used needles, debris, and garbage.

- It requires the program to operate on a one-for-one plus basis providing 10 extra syringes regardless of the amount brought in with a limit of no more than 100 new syringes provided per visit.
- It requires new syringes that are distributed to have an identifiable unified color or mark to identify the source as being that specific Syringe Exchange Program.

## **FINDINGS**

1. The proposed revisions to the KMC will provide staff a means to implement conditions to mitigate some of the potential negative public health and safety impacts of this type of land use.
2. Proposed revisions have been sent to the Washington State Department of Commerce for review as required under RCW 36.70A.106 on August 14, 2019. Acknowledgement that Kennewick was granted expedited review and met the Growth Management Act notice to state agency requirements in 36.70A.106 was received on August 28, 2019.
3. A Determination of Non-Significance was issued for proposed amendments to KMC 18.09 and KMC 18.12. The appeal period expired on September 18, 2019.
4. Notice of the public hearing on the proposed amendments was published in the Tri-City Herald on October 6, 2019.

## **CONCLUSION**

The City has the authority to regulate this land use to mitigate the potential public health and safety issues related to this use. Through adoption of the proposed amendments to Title 18, the City will have the tools to properly regulate this use to mitigate the potential risks.

## **RECOMMENDATION**

Staff recommends that the Planning Commission concur with the proposed changes, findings and conclusions and recommend approval to City Council.

CITY OF KENNEWICK  
ORDINANCE NO. 5839

AN ORDINANCE RELATING TO ZONING DEFINITIONS AND ADDING A  
NEW SECTION 18.09.2055 TO THE KENNEWICK MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS  
FOLLOWS:

**Section 1.** There is hereby added a new Section 18.09.2055 to the Kennewick Municipal Code, to read as follows:

**18.09.2055: Syringe Exchange Program:**

*Syringe Exchange Program is a Non-Profit Program that provides sterile syringe access, disposal of used syringes and/or exchange to Intravenous Drug Users (IDU's), while also referring and linking IDU's to HIV and viral hepatitis prevention services, substance abuse treatment, medical and mental health care.*

(Ord. 5839 Sec. 1, 2019)

**Section 2.** This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 5<sup>th</sup> day of November, 2019, and signed in authentication of its passage this 5<sup>th</sup> day of November, 2019.

Attest:

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TERRI L. WRIGHT, City Clerk

Approved as to Form:

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LISA BEATON, City Attorney

DATE OF PUBLICATION \_\_\_\_\_

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DON BRITAIN, Mayor

ORDINANCE NO. 5839 filed and recorded in the office of the City Clerk of the City of Kennewick, Washington this 6<sup>th</sup> day of November, 2019.

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TERRI L. WRIGHT, City Clerk

CITY OF KENNEWICK  
ORDINANCE NO. 5840

AN ORDINANCE RELATING TO A SYRINGE EXCHANGE PROGRAM  
AND NON-RESIDENTIAL USES AND AMENDING SECTION 18.12.010 B.1  
AND ADDING A NEW SECTION 18.12.045 TO THE KENNEWICK  
MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS  
FOLLOWS:

**Section 1.** Section 18.12.010 B.1 of the Kennewick Municipal Code, be, and the same hereby is, amended to add the Syringe Exchange Program to the Nonresidential Use Table to read as follows:

18.12.010 B.1: - Table of Non-Residential Uses.

The following table list uses allowed by zone and the applicable City review process as follows: Review Process I = Staff review, Review Process II = Conditional Use Permit. If a use is listed with a blank, it shall be prohibited in that zone. For certain categories of uses, additional requirements are also noted.

Nonresidential Uses	RS	RL	RM	RH	RMH	RTP	UMU	CN	CO	CBD	CC	CR	CAR	CG	CM	HMU	BP	IP	IL	IH	JF	PF	OS

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Syringe Exchange Program (See Title <a href="#">18.12.245</a> )																								

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([Ord. 5840 Sec. 1, 2019](#); [Ord. 5748 Sec. 2, 2018](#); [Ord. 5712 Sec. 3, 2017](#); Ord. 5670 Sec. 1, 2016; Ord. 5572 Sec. 1, 2014; Ord. 5542 Sec. 2, 2014; Ord. 5462 Sec. 4, 2012; Ord. 5434 Sec. 5, 2011; Ord. 5309 Sec. 10, 2010; Ord. 5262 Sec. 3, 2009; Ord. 5244 Sec. 3, 2008; Ord. 5204 Sec. 7, 2007; Ord. 5180 Sec. 1, 2007)

**Section 2.** There is hereby added a new Section 18.12.245 to the Kennewick Municipal Code, to read as follows:

**18.12.245 Syringe Exchange Program :**

(1) Syringe Exchange Programs as defined by 18.09.2055, is recognized as being a use which may prove detrimental in certain circumstances to surrounding neighborhoods and thereby the following regulations are imposed.

(2) No Syringe Exchange Program, shall be located

- (a) Within 500 feet of any residential or urban mixed use zone;
- (b) Within 500 feet of any public or private school, or any trade or vocational school that on a regular basis has at least one student under the age of 18;
- (c) Within 500 feet of any park or any public facility or institution;
- (d) Within 1,000 feet of another syringe exchange program;

- (3) No person owning, operating or managing a syringe exchange program or their employee or agent or volunteer shall invite, allow or permit any person under the age of 18 to enter or remain on the premises of a Syringe Exchange Program or participate in a Syringe Exchange Program.
- (4) The Business hours for a Syringe Exchange Program shall be limited to daytime hours.
- (5) The Syringe Exchange Program shall comply with State statutes and regulations regarding proper storage, handling and disposal of biohazard/sharps.
- (6) The Garbage containers on the premises must be secure and screened from view of the public.
- (7) The Syringe Exchange Program shall keep the facility, premises, abutting sidewalk and right of way free from all used needles, syringes, debris and garbage.
- (8) No person owning, operating or managing a syringe exchange program or their employee or volunteer shall invite, allow or permit any onsite injection either in the facility or on the premises.
- (9) The Syringe Exchange Program shall operate on a “One for One Plus” basis providing 10 extra syringes regardless of the number of syringes brought in by a participant but in no event shall a participant be given more than 100 syringes per visit.
- (10) The syringes and needles that are distributed to a program participant shall have an identifiable unified color or mark to identify the source as being the Syringe Exchange Program.

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(Ord. 5840 Sec. 2, 2019)

**Section 3.** This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 5<sup>th</sup> day of November, 2019, and signed in authentication of its passage this 5<sup>th</sup> day of November, 2019.

Attest:

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DON BRITAIN, Mayor

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TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5840 filed and recorded in the office of the City Clerk of the City of Kennewick, Washington this 6<sup>th</sup> day of November, 2019.

Approved as to Form:

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LISA BEATON, City Attorney

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TERRI L. WRIGHT, City Clerk

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